



DEPARTMENT OF THE NAVY

HUMAN RESOURCES OFFICE
NEW ORLEANS, LA 70142-5200

Canc frp: Dec 01

IN REPLY REFER TO:
HRONOLANOTE 12711.1
Code 20B
15 Nov 00

HRONOLA NOTICE 12711.1

Subj: ANNUAL NOTICE OF REPRESENTATION RIGHT

1. Purpose. To provide an annual notice to civilian employees represented by labor unions regarding their right to have a representative from the union present in any investigation.

2. Policy. The agency reminds employees annually that they have a right to representation under Title 5, U.S. Code, Section 7114(a)(2)(B). Supervisors and managers are reminded that they must respect this right and allow representation when requested and appropriate. Information obtained during an investigation in which representation was not allowed may not be used in a disciplinary action against an employee.

3. Information. The right of an employee to have a union representative present during an investigation is provided in Title 5, U.S. Code, Section 7114(a)(2)(B), which states:

(2) An exclusive representative (union) of an appropriate unit in an agency shall be given the opportunity to be represented at-

(B) any examination of an employee in the unit by a representative of the agency in connection with an investigation if-

(i) the employee reasonably believes that the examination may result in disciplinary action against the employee; and

(ii) the employee requests representation.

This right was first established in *National Labor Relations Board v. J. Weingarten, Inc.*, a Supreme Court decision which provided such rights to private sector employees represented by unions. If a bargaining unit employee is being questioned by any agency representative, including an IG investigator, and requests a representative, such investigation must be delayed for a reasonable length of time until a representative can be present.

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4. Action. Serviced activities with labor unions should post this notice on official bulletin boards and include it in other written and electronic communications media for employees. Supervisors need to be reminded of this responsibility to ensure that representation rights are provided in any investigations.


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